

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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MALEATRA MONTANEZ,

Plaintiff,

DECLARATION OF
EDWARD SIVIN

-against-

CITY OF SYRACUSE, POLICE
OFFICER CHESTER D. THOMPSON,
CHIEF OF POLICE FRANK L. FOWLER and
POLICE CAPTAIN THOMAS GALVIN,

6:16-CV-0550 (BKT/TWD)

Defendants.

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EDWARD SIVIN declares, pursuant to 28 USC § 1746, under penalty of perjury,
as follows:

1. I am a member of Sivin & Miller, LLP, attorneys for plaintiff in the above matter, and as such, and fully familiar with the facts and circumstances in conjunction therewith. I submit this Declaration in partial opposition to the motion for summary judgment by defendants City of Syracuse, Chief of Police Frank J. Fowler, and Police Captain Thomas Galvin (hereinafter “the municipal defendants”).

2. In connection with plaintiff’s opposition to defendants’ motion, I submit the following exhibits:¹

Exhibit 1: February 15, 2015 Syracuse Police Department (SPD) Incident Summary Report;

Exhibit 2: August 23, 2018 Declaration of Maleatra Montanez;

¹ Exhibits 1, 6, 10, 17, 18, 19, 20, 21, 23, and 24 were exchanged by the municipal defendants during discovery in this case.

Exhibit 3: Transcript of September 5, 2017 deposition of Chester Thompson (Thompson Depo.);

Exhibit 4: September 26, 2017 Affidavit of Melissa Popcun.;

Exhibit 5: September 26, 2017 Affidavit of Patricia Popcun;

Exhibit 6: Records of SPD investigation complaint of Patricia Popcun (Popcun Report);

Exhibit 7: Transcript of September 26, 2017 deposition of Frank L. Fowler (Fowler Depo.);

Exhibit 8: Transcript of September 27, 2017 deposition of Thomas Galvin (Galvin Depo.);

Exhibit 9: Transcript of September 26, 2017 deposition of Rebecca Thompson (Rebecca Thompson Depo.);

Exhibit 10: July 30, 2018 Declaration of Cheryle Bassett;

Exhibit 11: Portions of SPD General Rules and Procedure Manual (Manual);²

Exhibit 12: Transcript of January 17, 2018 deposition of Mark Czerniel (Czerniel Depo.);

Exhibit 13: August 24, 2018 Declaration of Robert Brown;

Exhibit 14: Transcript of December 11, 2017 deposition of John Baggett (Baggett Depo.);

Exhibit 15: August 6, 2018 Declaration of Elizabeth Elbayadi;

Exhibit 16: July 31, 2018 Declaration of John Malenick;

Exhibit 17: Municipal defendants' December 18, 2017 response to Plaintiff's Second Request for Documents;

Exhibit 18: Records of SPD's 2002 investigation into possible insurance fraud by Chester Thompson;

² The municipal defendants produced the Manual in response to plaintiff's request for a copy of the Manual that was in effect in 2014, which is when the SPD investigated the complaint made by Patricia Popcun.

Exhibit 19: Personnel Records of Chester Thompson (Personnel Records);³

Exhibit 20: October 6, 2005 SPD Internal-Departmental Memo (Cleeburke Memo);

Exhibit 21: Records of SPD investigation of complaints of Candy Buske and Cari Buske (Buske Report);

Exhibit 22: August 9, 2016 New York Daily News Article;

Exhibit 23: March 2, 2015 Affidavit of Kimi Fletcher; and

Exhibit 24: Report of SPD investigation of complaint of Maleatra Montanez.

3. Based on the foregoing, and for the reasons set forth in plaintiff's Memorandum of Law, plaintiff requests that the municipal defendants' motion for summary judgment, to the extent opposed by plaintiff, be denied in its entirety.

Dated: New York, New York
August 30, 2018



EDWARD SIVILIN

³ The Personnel Records supplied by the municipal defendants include yearly evaluations for most, but not all, of the years that Thompson was employed with the SPD. *See Exhibit 19, Bates Nos. 2-81.* The last evaluation supplied by the municipal defendants is for 2013.